82-170

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No. _____

In The

# Supreme Court Of The United States

October Term 1982

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**JOSEPH A. FESSLER AND ANN FESSLER, HIS WIFE,**
Petitioner,

v.

**REDEVELOPMENT AUTHORITY OF THE CITY OF WILKES BARRE PENNSYLVANIA, KEYSTATE BAKERY, ZATCOFF, INC. WOOD STREET WILKES BARRE, PA.; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PHILADELPHIA, PA.; SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C.**

Respondent

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**Petition For Writ Of Certiorari To The United States Court Of Appeals For The Third Circuit**

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18702
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Attorneys for Petitioner

## QUESTIONS PRESENTED FOR REVIEW

Why Redevelopment Authority refused to pay me relocation payment, failed to inform me of my rights and benefits.

Why my lawyer never brought the question of relocation payment up in court.

Why I had to appeal myself to Redevelopment Authority, Hud, Philadelphia, petition Luzerne County Court, Middle District Court, Court of Appeals,no court or attorneys will handle it, area director Hud said I could take it to court.

Why my real estate was appraised low by Redevelopment Authority.

| There Appraisal | My Appraisal |
|---|---|
| $55,000 | $92,000 |
| $26,000 | $62,000 |
| $38,000 | $59,000 |

Why two real estate appraisals were made on my property, 214 East Market, one for myself and one for my tenant.

Why was the M & E real estate which was awarded

to me by the Board of View taken from me and given to my tenant.

Why did the Redevelopment Authority and Hud force me into this mess making me spend $14,000 in Attorney's fee's not counting my time and money spent on making these appeals.

Why I wasn't payed $25,000 in rent, the booklet put out by Community Development states they would pay landlord rent until last tenant was moved out. Last tenantwas there for over two years.

Why was I not payed $3,100 for personal items left in the basement at 214 E. Market St.

Why Redevelopment Authority, Hud Philadelphia won't release documents regarding my cases. These documents would assist me in my case.

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PETITIONER,

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RESPONDENT,

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

JOSEPH A. FESSLER AND ANN FESSLER, his wife, respectfully prays that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Third Circuit, filed on 5 April 1982.

## OPINIONS BELOW

The Court of Middle District of Pennsylvania entered its memorandum decision November 20,1980. A copy of the order is attached as Appendix A.

The Court of Appeals entered its memorandum decision on April 5, 1982. A copy of the order is attached as Appendix B.

## CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Amendment V:

> Nor Shall any person .... be deprived life, liberty, or property, without due process of law ....

## STATEMENT OF THE CASE

1. Denied the right to appeal relocation payment for properties 312-314, rear 312 East Market Street, 289, 291, 291½ East Market Street, 16 South Grant, Rear 16 South Grant Street, all properties are located in Wilkes-Barre, Penna. A written appeal was filed with Wilkes-Barre Redevelopment Authority and was turned down because I had another rental building, this was also in the project area. An appeal was filed with Paul Kane, Area Director, Department of Housing and Urban Development, Philadelphia, Penna. In my opinion he "RUBBER STAMPED " Wilkes-Barre Redevelopment documents regarding my eligibility for relocation payments. According to HUD Relocation Manual 1371.Rev Chapter 6 Sec. 3 page 29-30 the sole remaining establishment shall not be considered another business. To be Considered as another business, Penna.

Law States another establishment has to be outside the project area. All my properties were inside the project area. I was told I could appeal their finding in Court. I filed an appeal in Luzerne County Court, Wilkes-Barre,Penna. I never heard from them regarding the matter, so I filed my appeal again with the Federal Court Middle District, Scranton,Penna.,United States Court of Appeals, Third Circuit, Philadelphia,Penna. amd was turned down again. They said I could appeal in Court, What Court honors these appeals ? These projects are 90% funded by Federal Government HUD Manual Covers Federal Laws. I feel the Courts is biased for not hearing my appeal regarding this matter. In my opinion Wilkes-Barre Redevelopment Authority and all my lawyers failed to give me the correct information on relocation. Why would I take around $1400.00 when I am entitled to $100,000.00 for relocating. If I was fully informed it is reasonable to assume that I would have taken the $100,000.00 for relocating my business. This information is according to HUD Relocation handbook 1371. 1 Chapter 6

Sec 2 page 14-15.

Redevelopment Authority is using the same papers appealed by me. "General Release" paper that was in trash can when I left Louis Attardo office, he was the relocation specialist. This General Release covers Federal and State Emminent Domain Laws.

Seeking review of my real estate appraisals. Redevelopment appraisal were low for all my properties. I feel this is why they have relocation payments to cover their low appraisals of the properties. I feel the money I was eligible to receive was used on other projects in Wilkes-Barre, Penna. The only people that got full information from Wilkes-Barre Redevelopment and HUD are influential people and friends of redevelopment authority.

No information was brought up to the board of View, Luzerne County Court in regards to relocation payment. A false statement was made to the Deputy Auditor General Office regarding this matter.

2. Regarding property 214 East Market Street, Wilkes-Barre, Penna. Wilkes-Barre Redevelopment Authority and my lawyers failed to give me the

correct information regarding relocation, the same as they did with the other properties. The real estate appraisal was again low forcing me to take this into Court again.

The Board of View awarded me the $4100.00 for M&E real estate. Instead this $4100.00 was given to my tenant Keystate Bakery Zatcoff Inc. Who was not the owner only a tenant. In my opinion Wilkes-Barre Redevelopment Authority was using this to take over my real estate by illegal means. This M&E real estate should be three times the amount of $4100.00. Effort to obtain documents from Wilkes-Barre Redevelopment Authority and HUD regarding M&E real estate have been fruitless. The only papers I have obtained from them have been to their benefit. I have spent thousand of dollars in lawyers fees trying to straighten this mess out. HUD manual covers lawyers and appraisal fees. State of Penna. only allows $500.00. How in this day and age can you get a lawyer and appraisers for this amount. Wilkes-Barre Redevelopment Authority and HUD got me into this mess and they should have to pay in full for my lawyers and appraisal fees. These fees

totaled $14,000.00 for all cases which I was forced to take into court. This does not count my time and money. All cases were won by me so they should be obligated to pay. This in according to HUD relocation handbook 1371. 1 Rev appendix 1 Section 304,62 Stat 933 ante P449 68 Stat. 1241.

3. Seeking Medical bills caused by tactics used by Wilkes-Barre Redevelopment Authority to acquire my properties.

4. Seeking recovery of loss of rent monies caused by Wilkes-Barre Redevelopment Authority moving my tenants out arbitarely, telling tenants not to pay me rent, thereby forcing me out of business. After forcing my tenants out they kept one of my tenants, Keystate Bakery there for well over (2) two years. Documents stating Redevelopment Authority would reimburse the landlord for the rent he would have received had the tenant not been relocated and to pay until last tenant was moved out. Last tenant,Keystate Bakery, was moved out well over 2 years. I feel I am eligible to collect rent money for well over two years over $25,000.00 dollars. Because I never collected just compensation for that length of time.

5. Seeking recovery of $3100.00 for personal items,

material, tools, miscellanous left in the basement. This is according to HUD relocation handbook 1371.1 Rev. 42.70. Appraisal of this amount was done by Wilkes-Barre Redevelopment appraisers.

6. Wilkes-Barre Redevelopment Authority, HUD Washington D.C. are trying to dominate the Housing in the City of Wilkes-Barre by Building 2400 units running me out of business so they could take over the Housing in the city. For this reason I feel I wasn't given a chance to relocate.

7. All documents were forwarded to United States District Court for Middle District of Pennsylvania & United States Court of Appeals For The Third Circuit, Philadelphia, Penna.

## REASON FOR GRANTING THE WRIT

I am attempting to proceed under 42 U.S.C. &1983 because persons who failed to give me the correct information who did not tell the truth to the court made false statement all who work for Wilkes-Barre Redevelopment Authority, Wilkes-Barre,Pa. They should be subject to &1983 Civil Action for deprivation of rights. Every person who, under color of any State ordinance, regulation, custom, or usage of the state or Territory, subjects,

or causes to be subjected, any citizen of the United States or the person within jurisdiction there of to the Deprivation of any rights, privileges immunties securd by Constitution and law shall be liable to the party injured in action of law, suit in equity, or other proper proceeding for redress.

## CONCLUSION

For the foregoing reasons, petitioners Joseph A. Fessler and Ann Fessler his wife respectfully request that a writ of certiorari issue review the Judgment of the United States Court of Appeals for the Third Circuit. Seeking 1.5 Million dollars damages.

Respectfully submitted

Dated 1 July 1982

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